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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|--------------------------|------------------|
| 09/760,975 | 01/16/2001 | Roy Frank Brabson | 5577-217/RSW920000061US3 | 4362 |

58505 7590 08/24/2006

STEVENS & SHOWALTER, L.L.P.
BOX IBM
7019 CORPORATE WAY
DAYTON, OH 45459-4238

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| EXAMINER |
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HU, JINSONG

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| ART UNIT | PAPER NUMBER |
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2154

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,975

Applicant(s)

BRABSON ET AL.

Examiner

Jinsong Hu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-35 are presented for examination. Claims 1, 23, 32 and 33-35 have been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 and 9-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Sen et al. (US 6,765,909).

4. As per claims 1-2 and 9-13, Sen teaches the invention as claimed including a method for providing transactional quality of service [col. 1, lines 15-20], the method comprising:

providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction,

wherein the transaction service level information is provided separate from data for the content data transmission transaction [col. 3, lines 24-40; col. 4, lines 40-61]; and

determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application [col. 4, line 62 – col. 5, line 7; col. 6, lines 6-18; col. 7, lines 28-38].

5. As per claims 3-5, Sen teaches the step of incorporating comprises incorporating quality of service level information into an Internet protocol (IP) header field of data transmissions associated with the data transmission transaction [col. 5, line 66 – col. 6, line 18; col. 6, lines 30-38].

6. As per claims 6-7, Sen teaches the data transmission associated with the data transmission transaction are data transmission transmitting data provided with a request from the application for the data transmission transaction [col. 4, line 62 – col. 5, line 8].

7. As per claims 14-16, Sen teaches the steps of determining if a response associated with the data transmission transaction is received by the communication process [col. 7, lines 38-40]; and allocating resources of a data processing system associated with the communication process to process the received response utilizing a quality of service level based on the determined quality of service of the data

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transmission transaction established for the data transmissions associated with the received response [col. 7, lines 41-51].

8. As per claim 17, Sen teaches the quality of service level utilized to allocate resources of the data processing system is different from the determined quality of service [col. 4, lines 26-50].

9. As per claims 18-20, Sen teaches the step of determining a quality of service level comprises the steps of determining if the transaction service level includes an identification of a predefined quality of service level [col. 6, line 66 – col. 6, line 6]; and utilizing the predefined quality of service level as the determined quality of service level if the transaction service level includes an identification of the predefined quality of service level [col. 6, lines 30-38].

10. As per claims 21 and 22, Sen teaches the communication process comprises a TCP/IP kernel and a communication protocol stack [col. 2, lines 48-57].

11. As per claims 23-26, Sen teaches the invention as claimed including a method for establishing a quality of service level for the transmission of data, comprising:

providing an application program interface to a communications process which both receives content data to be transmitted by the communication process and receives quality of service information associated with the content data to be transmitted

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so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received content data to be transmitted [col. 3, lines 24-40; col. 4, line 40 – col. 5, line 7; col. 6, lines 6-18; col. 7, lines 28-38].

12. As per claims 27-31, since they are system claims of claims 1, 14, 19 and 21-22, they are rejected for the same basis as claims 1, 14, 19 and 21-22 above.

13. As per claims 32 and 34, since they are apparatus and computer program claims of claim 1, they are rejected for the same basis as claim 1 above.

14. As per claims 33 and 35, since they are system and computer program claims of claim 23, they are rejected for the same basis as claim 23 above.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al. (US 6,765,909) as applied to claims 1-7 and 9-35 above, in view of Official Action.

17. As per claim 8, Sen teaches the invention substantially as claimed in claim 1. Sen does not specifically teach the data for the data transmission transaction being encrypted. However, "Official Notice" is taken that both the concept and advantages of providing for data encryption is well known and expected in the art. It would have been obvious to a person of ordinary skill in the art to add encryption function in Sen's system because doing so would increase the secure level of the system.

Conclusion

18. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jinsong Hu', with a large, stylized loop at the end.

Jinsong Hu

August 17, 2006